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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/771,834

02/02/2004

Andrew F. Hall

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EXAMINER

ANDERSON, GREGORY A

ART UNIT

PAPER NUMBER

3773

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/771,834	<b>Applicant(s)</b> HALL ET AL.	
	<b>Examiner</b> GREGORY A. ANDERSON	<b>Art Unit</b> 3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-19 and 27-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-19 and 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |



## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 6-7 and 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Vander Salm et al. 5,906,579.

Regarding claims 6 and 7: Vander Salm et al. discloses a system comprising: a sheath 11 having a sheath body having a proximal end and a distal end; a lumen (Fig. 3) extending through the sheath body from proximal end to distal end; a catheter 10 having a catheter body 11 having a proximal end and a distal end terminating in a distal tip 42a; an energy source coupled to the distal tip (Col. 7 ll. 34-37); A magnetically active element 110 located proximate the distal tip wherein the magnetically active element is made of a material that is attracted to a magnet.

Regarding claims 27 and 28: Vander Salm et al. further discloses an external magnet 210 that applies a magnetic field that orients the distal tip of the catheter such that the catheter tip may be positioned by advancing the catheter in the direction determined by the magnetic orientation of the catheter tip.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vander Salm et al. in view of LeVeen 4,154,246 .

Vander Salm et al. discloses the invention essentially as claimed as discussed in claim 6 above.

However, Vander Salm et al. does not disclose any means for heating such as radio frequency.

LeVeen discloses using radio frequency to heat a metallic element (Col. 1 ll. 55-60).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Vander Salm et al. with the radio frequency heating of LeVeen in order to facilitate thermotherapy on a tumor as taught by LeVeen (Abstract).

5. Claims 11-12, 14-16, and 29-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Vander Salm et al. in view of LeVeen and further in view of substitution of known equivalents.

Vander Salm et al. in view of LeVeen does not disclose using optical laser energy or resistance heating elements and electrical energy for heating.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of VanderSalm et al. in view of LeVeen by substituting optical laser energy or resistance heating elements and electrical energy since it has been held that the selection of a known component is obvious when it does not produce a new or unexpected result; *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

**6.** Claims 13 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vander Salm et al. in view of substitution of known equivalents.

Vander Salm et al. discloses the invention essentially as claimed as discussed in claim 6 above as well as using an optical fiber imaging device (Abstract).

However, Vander Salm et al. does not disclose using ultrasonic devices or lasers for imaging.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Vander Salm et al. to include ultrasonic devices or laser devices since it has been held that the selection of a known component is obvious when it does not produce a new or unexpected result; *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

**7.** Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vander Salm et al. in view of Drasler et al. 5,370,609.

Vander Salm et al. discloses the invention essentially as claimed as discussed in claim 6 above.

However, Vander Salm et al. does not disclose a fluid directing element coupled to a hydraulic energy source.

Drasler et al. discloses a fluid directing element coupled to a hydraulic energy source (Abstract).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Vander Salm et al. with the fluid directing element and hydraulic energy source of Drasler et al. in order to facilitate thrombectomy as taught by Drasler et al. (Abstract).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 6 and 7 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY A. ANDERSON whose telephone number is (571)270-3083. The examiner can normally be reached on Mon-Thurs 9:30am-3:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory A Anderson/

/(Jackie) Tan-Uyen T. Ho/  
Supervisory Patent Examiner, Art Unit 3773